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No. 8476

IN THE  
United States  
Circuit Court of Appeals  
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

*Appellant,*

*v.*

ALMA I. WAGNER, EXECUTRIX OF  
THE ESTATE OF ROBERT G.  
WAGNER, DECEASED, and UNITED  
STATES FIDELITY AND GUAR-  
ANTY COMPANY, a Corporation,

*Appellees.*

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APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES, IN  
AND FOR THE SOUTHERN DISTRICT OF CALIFORNIA,  
CENTRAL DIVISION

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BRIEF FOR THE UNITED STATES

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**BRIEF FOR THE UNITED STATES**

Opinion Below

The opinion of the District Court (R. 25-26) is unreported.

**Jurisdiction**

This appeal involves additional interest of approximately \$1,338.04 on a bond given to guarantee payment of income tax for 1920, representing a liability of the estate of Robert G. Wagner, and is taken from a judgment of the District Court entered October 1, 1936. (R. 27-31.) The case is brought to this Court by petition

for appeal filed December 30, 1936 (R. 31-32), together with assignment of errors (R. 32-33), which were allowed on the same date (R. 34). The jurisdiction of this Court is invoked by the provisions of Section 128(a) of the Judicial Code, as amended by the Act of February 13, 1925. The jurisdiction of the trial court arises by reason of the fact that plaintiff's suit is an action at law of civil nature, founded upon contract and growing out of the laws of the United States providing for internal revenue, as stated in the bill of complaint, Paragraph IV. (R. 4.)

### Question Presented

Whether a surety on an appeal bond executed pursuant to Section 603 of the *Revenue Act of 1928* is liable for interest at the rate prescribed by the Federal statute or at the rate prevailing in the state.

### Statutes and Regulations Involved

These will be found in the Appendix, *infra*, pp. 17-23.

### Statement

This is a suit to collect on a bond given by appellees, Alma I. Wagner, executrix of the estate of Robert G. Wagner, her deceased husband, as principal, and the United States Fidelity and Guaranty Company as surety, to secure the payment of income tax due from the decedent for 1920. (R. 3-10.) The facts are not in dispute.

On October 19, 1927, the Commissioner of Internal Revenue duly notified Alma I. Wagner, as executrix of



her husband's estate, of a deficiency of income tax relating to decedent's income for 1920. (R. 5.) A petition was thereupon filed with the United States Board of Tax Appeals, contesting the Commissioner's determination of deficiency. (R. 6.) The Board entered its decision on June 29, 1931, affirming the Commissioner's determination. (R. 6.)

On October 24, 1931, the bond upon which this proceeding is based was executed by appellees (R. 6-7), and thereafter, on December 15, 1931, same was approved by a member of the United States Board of Tax Appeals (R. 7). Appellee Alma I. Wagner thereupon prosecuted her petition for review of the decision of the United States Board of Tax Appeals before the United States Circuit Court of Appeals for the Ninth Circuit. On March 13, 1933, the Circuit Court of Appeals affirmed the decision of the Board of Tax Appeals. (R. 8.) No petition for writ of certiorari was filed. (R. 8.)

The Commissioner assessed the deficiency as determined by the Board and affirmed by the Circuit Court of Appeals, in August, 1933, in the amount of \$13,380.44, plus interest in the sum of \$6,021.20. (R. 8.) The United States Collector of Internal Revenue made demand on Alma I. Wagner for payment of the deficiency and interest on September 1, 1933 (R. 8-9), and made further demand on the United States Fidelity and Guaranty Company on February 28, 1934, for the tax and interest (R. 9). Upon failure of either of the appellees to pay the tax or interest or any part thereof, the bill of complaint herein was filed on March 25, 1935 (R. 14),

to recover the sum due and owing in accordance with the obligation of the bond. The bill claimed interest at the rate of 1% per month from the date of notice and demand for payment of the deficiency, September 1, 1933, on the principal amount of the tax exclusive of accrued interest. (R. 9-10.) Judgment was entered on October 1, 1936, in accordance with the prayer of the bill except interest was allowed only at the rate of 7% per annum from September 1, 1933, to August 30, 1935, and at the rate of 6% per annum thereafter. (R. 28.) Appellant accordingly brings this appeal, claiming error on the part of the District Court in failing to allow interest on the principal amount of the tax as claimed in the bill of complaint at 1% per month from September 1, 1933, to August 30, 1935.<sup>1</sup> Interest from and after the latter date is governed by Section 404 of the *Revenue Act of 1935*, which provides that the rate of interest from the date of enactment of the statute shall be 6% per annum.

### Summary of Argument

The surety is primarily liable on an appeal bond executed pursuant to Section 603 of the *Revenue Act of 1928* from the date of acceptance thereof by the Board of Tax Appeals. The condition of the bond involved herein is such that the liability of the surety may only be extinguished by complying with its promise which is to

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<sup>1</sup>Although not prayed for in this action, a strict interpretation of Sections 292 and 294(b) of the *Revenue Act of 1928* would seem to provide for interest at 1% per month on the total deficiency inclusive of accrued interest for the reason that Section 292 provides that interest shall be added to and become part of the tax. Section 294(b) provides for interest on the "unpaid amount."



### Specification of Errors to be Urged

The lower court erred in failing to allow interest on the principal sum of \$13,380.40 at the statutory rate of 1% per month from September 1, 1933, the date of notice and demand upon the taxpayer for payment, to August 30, 1935, the effective date of the Revenue Act of 1935.

Alternatively, the lower court erred in allowing interest only at the rate of 7% per annum from September 1, 1933, to August 30, 1935, and not at the rate of 1% per month, according to the provisions of the applicable Federal statute.

pay the deficiency in tax found to be due, plus interest and additions thereto provided for by law. The purpose of the Federal statutes in requiring the bond is to insure the collection of the deficiency and the interest provided by Federal law. Hence, the interest on the deficiency referred to in the bond is that provided in the Federal statutes under the authority of which the bond was given and does not relate to the local rate in any particular state.

## ARGUMENT

### The Rate of Interest Is Controlled by the Federal Statute and Not by State Law

As stated by this Court in *United States v. Fidelity & Deposit Co. of Maryland*, 80 F. (2d) 24, 27: "A bond to pay taxes is a new obligation." The surety is primarily liable and no notice is necessary to fix liability under the bond. *United States v. Drieling*, 21 F. (2) 211 (S. D. N. Y.)

The surety in the bond involved in the instant case became primarily liable from the date of the approval of the bond by the Board of Tax Appeals on December 15, 1931. This was a continuing liability, from which it could have been discharged by a decision overruling the determination of the Commissioner or by payment of the deficiency and interest by the taxpayer. The only other alternative which could have discharged the surety's continuing liability was payment according to the terms of the bond, namely, by paying the "deficiency as finally

determined, together with any interest, additional amounts or additions to the tax provided for by law.”

This action was brought to enforce the promise contained in the bond. This Court in *United States v. Fidelity & Deposit Co. of Maryland*, *supra*, cited with approval the case of *United States v. Clark*, 3 F. Supp. 375 (W. D. Pa.), wherein the court held that the surety on a bond given to stay the collection of a tax was estopped to deny its validity.

That court in a subsequent hearing to fix the amount of judgment, decided April 24, 1933, not officially reported but found in 1933 C. C. H., Vol. 3, Par. 9297, amended its judgment to include interest at 1% per month in accordance with the provisions of Section 250(e) of the *Revenue Act of 1918* (clarified by Section 250(f) of the *Revenue Act of 1921*). The court said:

“The surety, by its execution of the bond, incurred the same liability for payment of the taxes in question as existed on the part of the principal. The obligation was fixed by statute and the surety, by its bonds, undertook to meet that obligation in case of default by the principal. This is not a case of where interest is claimed as a mere incident to the recovery of a judgment for money due, *but is one where the recovery is upon an obligation to pay a debt, penalty and specific interest prescribed by statute.*” (Italics supplied.)

That is the position of the Government in the instant case.

The obligation which defendant surety undertook to pay, namely, the deficiency and all interest provided for

by law, is measured by Section 292 and 294 of the *Revenue Act of 1928, infra*. Section 292 provides that the rate of interest on a deficiency assessment shall be 6% from the due date, in this case March 15, 1921 (R. 4), to the date of assessment, namely, August 26, 1933.

Notice and demand was made upon the taxpayer on September 1, 1933 (R. 8) for the payment of the deficiency assessment and interest. Payment was not made within ten days thereafter, by the virtue of which failure, interest became due and payable according to the provisions of Section 294(b), *infra*, at the rate of 1% per month from the demand upon the taxpayer on September 1, 1933, until August 30, 1935, the effective date of the *Revenue Act of 1935* (see Section 404 of the *Revenue Act of 1935, infra*), and thereafter at 6% until paid.

Defendant surety, by the clear and expressed terms of the bond, substituted its liability for that of the taxpayer and is answerable to the United States for the taxpayer's obligation which is, as stated above, to pay interest at 1% per month from the date of notice and demand on September 1, 1933, until August 30, 1935, and at 6% thereafter. This is certainly true at least up to the penal sum of the bond. By contracting to pay the deficiency, together with interest as provided for by law, the defendant surety did so with reference to the interest rate provided by the Federal statute and not with reference to the rate of interest prevailing in any particular State.

A petition to review the decision of the Board of Tax Appeals does not stay the collection of the deficiency. Section 603 of the *Revenue Act of 1928, infra*. The

Government relinquished the right to immediately proceed to collect the deficiency in exchange for the promise of defendant surety to pay the taxpayer's obligation. Its purpose is to insure the collection of the deficiency and interest thereon provided for by law. The bond in the instant case is the usual bond required by Section 1001(c) of the *Revenue Act of 1926*, as amended by Section 603 of the *Revenue Act of 1928*, of the taxpayer where an appeal is taken to the Circuit Court of Appeals from the decision of the Board of Tax Appeals. If such bonds do not obligate the parties signing them to interest fixed by the Federal statute, the clear intent of the statute is defeated.

It is to be noted that the bond in the instant case fails to specify a date for the payment of the obligation and it seems clear that the parties contracted with reference to the time fixed by the Federal statute for payment. It seems equally clear that the parties had in mind the rate of interest fixed by the same statute applicable in case of nonpayment. It is unlikely that the parties had in mind the date of payment fixed by the Federal statute and not the rate of interest fixed by the same statute applicable in case of failure to comply therewith.

It is submitted that the case of *United States v. John Barth Co.*, 279 U. S. 370, is controlling authority in the instant case and the facts therein are the same in principle except for the fact of assessment. In that case, after assessment was made, claims in abatement were filed and pursuant to the provisions of Section 234(a), subsection 14(a) of the *Revenue Act of 1918*, *infra*, a



bond with surety was given to secure payment of the tax finally determined to be due. That section, which is substantially the same as Section 250(e) of the same Act, provides that all tax found to be due shall, upon notice and demand, be paid with interest at 1% per month from the due date of the tax. The Court, in rendering judgment against the taxpayer and the surety in the suit on the bond, effectuated the intent of the statute by allowing interest not at the State rate but at the rate fixed by the Federal statute, said (p. 375):

“The plain purpose of Paragraph 14(a) was to effect a substitution for the obligation arising under the return and assessment to pay the tax, of the contract entered into in the bond to pay any part of the tax found to be due upon the subsequent determination of the Commissioner, and *this with interest at the rate of 1% per month* from the time the tax would have been due, had no claim been filed. (Italics supplied.)

Thus when the bond in the instant case was given, there accrued to the Government an additional remedy for payment, namely, the promise of the surety and taxpayer under the bond to pay the deficiency and interest imposed thereon by the Federal statute which was in substitution of the right to sue the taxpayer for the tax.

The Government's contention herein was adopted in the case of *United States v. Maryland Casualty Co.*, 49 F. (2d) 556 (C. C. A. 7th), certiorari denied, 284 U. S. 645, cited by this Court in the case of *Hughson v. United States*, 59 F. (2d) 17. That court effectuated the intent

of Congress in a suit on a bond given, pending action on a claim in abatement by awarding judgment to include interest at 1% per month from the date the claim was decided until the tax was paid. See Section 250(e) of the 1918 Act, *infra*. It is to be noted that the section just cited provided that interest shall run not from the date of notice but from the date the claim was decided.

Furthermore, it is submitted that the decision of this Court in the *Hughson* case *supra*, is decisive of the law in the instant case. There the bond, executed pursuant to Section 279(a) of the *Revenue Act of 1924, infra*, was given to stay the collection of assessments pending final decision of claims in abatement. This Court, in holding that the Government was entitled to recover from the surety interest at 1% per month at least from the date of notice of the rejection of the claim for abatement and demand for payment to the surety, said (p. 19):

“But the bonds in suit imposed a liability for the deficiency in tax plus all penalties and interest. The bonds were given on August 18, 1925, under the Revenue Act of 1924, which provides that, where an extension of time is given, interest runs on the deficiency at 6 per cent. for the period of the extension and thereafter at 1 per cent. per month. Revenue Act 1924, § 274(g), 43 Stat. 298 (26 USCA § 1054 and note). The same rule applies to jeopardy assessments such as these made under section 276(a) (2) and section 274(d) of the Revenue Act of 1924; (26 USCA § 1056(a) (2), and § 1051 note); and section 279(a) of the Act (26 USCA § 1063 note) provides for interest at the rate of 1 per cent, per

month, if the amount included in the notice and demand is not paid within ten days after such notice and demand. The demand referred to is that made by the collector upon the taxpayer after the claim in abatement has been rejected in whole or in part. A similar provision occurred in the Revenue Act of 1926 and the Revenue Act of 1928. Sections 274(k), 276(a) (2), (b), and 279 (j), Revenue Act of 1926, 26 USCA §§ 1054 and note, 1056(a) (2), (b) and note, 1051 (j); sections 273 (f) and 294(a), (b), Revenue Act of 1928, 26 USCA §§ 2273(f), 229<sup>+</sup>(a), (b). The notice of the rejection of the claim for abatement and demand for the tax was made on the taxpayer on December 9, 1927, and on the bondsman July 14, 1928. The government was entitled to interest at 12 per cent. at least as soon as July 15, 1928. *United States v. Maryland Casualty Co.* (C. C. A.) 49 F. (2d) 556.”

It is to be noted that the bond involved in the *Hughson* case, *supra*, was one given under the provisions of Section 279(a) of the 1924 Act, *infra*, which provided that interest shall run at 1% per month after notice and demand if not paid within ten days thereafter. This Court in the case just cited, ruled that the notice required was notice to the taxpayer. It may also be pointed out that the Government did not prosecute a cross appeal in that case, claiming interest at 1% per month from the date of notice to the taxpayer, and the language there used seems clearly to indicate an opinion that the rate provided by the Federal statute should apply from the date of notice to the taxpayer and not from the date of notice to the

surety for the reason that, the surety being primarily liable on the bond, notice to the taxpayer is only necessary according to the statute to start the running of interest at 1% per month.

The same requirement as to notice, not to fix the liability under the bond but to start the running of interest at 1% per month, applies to bonds given in connection with both jeopardy assessments and claims in abatement,<sup>2</sup> as will be seen by reference to the following sections, *infra*:

Sec. 250(e) of the Revenue Act of 1918	(Claim in abatement)
Sec. 250(e) " " 1921	" "
Sec. 279(a), (b) and (c) " " 1924	" "
Sec. 274(d) " " 1924	(Jeopardy assessment)
Sec. 279(f), and (j) " " 1926	" "
Sec. 273(f) " " 1928	" "
Sec. 297 " " 1928	" "
Sec. 273(i) " " 1928	" "

Thus, notice is required by the above sections, but it is only necessary to effect a change in the rate of interest from 6% per annum to 1% per month.

The court in *Maryland Casualty Co. v. United States*, 76 F. (2d) 626 (C. C. A. 5th), had before it a bond given to stay collection of the tax pending a claim in abatement. The court, we submit, erroneously held that the Government was only entitled to interest at the legal or state rate from the expiration of the period of the extension up to the penal sum of the bond and then only

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<sup>2</sup>The provisions relating to claims for abatement were omitted in the 1926 Act for the reason that the Board of Tax Appeals rendered the same unnecessary. See Section 279(a) of the 1924 Act, *infra*, which is substantially similar to Section 250(e) of the 1918 and 1921 Acts.

at the legal or statutory rate thereafter, providing notice is given to the surety. It is to be noted that the interest if allowed in that case at the statutory rate of 1% per month, when added to the principal, would exceed the penal sum of the bond. It seems apparent from the opinion that this fact influenced the court's opinion. See in this connection *United States v. Fidelity & Guaranty Co.*, 236 U. S. 512, 530.

The bond involved in the case of *Maryland Casualty Co. v. United States* (C. C. A. 7th), decided January 21, 1937, not officially reported but found in 1937 C. C. H., Vol. 3, Par. 9063, was given for an extension of time within which to pay the tax. The applicable statutes were Section 274(k) of the *Revenue Act of 1926* and Section 272(j) of the 1928 Act. The court approved the computation of interest on the principal amount of the tax at 6% from the date of demand on the taxpayer to the date of demand upon the surety and to this amount was added interest at 1% per month until the date that the principal and interest equalled the penal sum of the bond and thereafter at the legal rate of interest in Illinois. The authorities for this computation were stated to be *United States v. Maryland Casualty Co.*, 49 F. (2d) 556 (C.C.A. 7th), *supra*, and *Maryland Casualty Co. v. United States*, 76 F. (2d) 626 (C.C.A. 5th), *supra*. It is impossible to reconcile this ruling with that court's earlier holding in 49 F. (2d) 556, *supra*, for the reason that whereas the statute authorizing the acceptance of the abatement bond in 49 F. (2d) 556, *supra*, required notice to start the running of interest at the rate of 1% per month, the statute

authorizing the extension bond in the case decided January 21, 1937, *supra*, contains no requirement of notice as to the beginning of the 1% rate inasmuch as the rate at 1% per month applied prior to the beginning of the extension period and it was only by virtue of the acceptance of the extension bond and the duration of the period of the extension that it was reduced to ½% per month until expiration of the extension. As to extension bonds, see Section 250(f) of the 1921 Act, Section 274(g) of the 1926 Act, Section 274(k) of the 1926 Act, and Section 272(j) of the 1928 Act.

It is submitted that the decision in the case of *Maryland Casualty Co. v. United States*, 76 F. (2d) 626 (C.C.A. 5th), *supra*, and that decided January 21, 1937 by the Seventh Circuit, discussed above, are not in agreement with *United States v. John Barth Co.*, *supra*; *Hughson v. United States*, *supra*, and *United States v. Maryland Casualty Co.*, 49 F. (2d) 556, *supra*, and *United States v. Clark*, *supra*, and therefore are not controlling authority in the instant case, and for the further reason that they leave unfulfilled the purpose of the Federal statute authorizing tax bonds, in failing to hold the surety to fulfill its promise under the bond, namely, to pay the taxpayer's obligation at least up to the penal sum of the bond.

### Conclusion

The lower court erred in allowing interest at 7% per annum from September 1, 1933, to August 30, 1935. An order should be entered, requiring that the judgment be

modified and interest allowed for such period at the rate of 1% per month as provided by the Federal statute.

Respectfully submitted,

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MARCH, 1937





## APPENDIX

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### STATUTES INVOLVED

*Revenue Act of 1918*, c. 18, 40 Stat. 1057:

#### DEDUCTIONS ALLOWED

SEC. 234. (a) That in computing the net income of a corporation subject to the tax imposed by section 230 there shall be allowed as deductions:

(14) (a) At the time of filing return for the taxable year 1918 a taxpayer may file a claim in abatement based on the fact that he has sustained a substantial loss \* \* \* of the value of the inventory for such taxable year, \* \* \*. In such case payment of the amount of the tax covered by such claim shall not be required until the claim is decided, but the taxpayer shall accompany his claim with a bond in double the amount of the tax covered by the claim, with sureties \* \* \* conditioned for the payment of any part of such tax found to be due, with interest.  
\* \* \*

\* \* \* \*

#### PAYMENT OF TAXES

SEC. 250. \* \* \*

(e) If any tax remains unpaid after the date when it is due, and for ten days after notice and demand by the collector, then \* \* \* there shall be added as part of the tax the sum of 5 per centum on the amount due but unpaid, plus interest at the rate of 1 per centum per month upon such amount from the time it became due: *Provided*, That as to any such amount which is the subject of a bona fide claim for abatement such sum of 5 per centum shall not be added and the interest from the time the amount was

due until the claim is decided shall be at the rate of  $\frac{1}{2}$  of 1 per centum per month.

*Revenue Act of 1921*, c. 136, 42 Stat. 227:

SEC. 250 (e) [This is substantially identical with Section 250(e) of the Revenue Act of 1918.]

*Revenue Act of 1924*, c. 234, 43 Stat. 253:

SEC. 274. \* \* \*

(d) If the Commissioner believes that the assessment or collection of a deficiency will be jeopardized by delay such deficiency shall be assessed immediately and notice and demand shall be made by the collector for the payment thereof. \* \* \* If the taxpayer does not file a claim in abatement as provided in section 279 the deficiency so assessed \* \* \* shall be paid upon notice and demand from the collector.

\* \* \* \*

#### CLAIMS IN ABATEMENT

SEC. 279. (a) If a deficiency has been assessed under subdivision (d) of section 274, the taxpayer, within 10 days after notice and demand from the collector for the payment thereof, may file with the collector a claim for the abatement of such deficiency, \* \* \*. Such claim shall be accompanied by a bond, in such amount, not exceeding double the amount of the claim, \* \* \* conditioned upon the payment of so much of the amount of the claim as is not abated, together with interest thereon as provided in subdivision (c) of this section. Upon the filing of such claim and bond, the collection of so much of the amount assessed as is covered by such claim and bond shall be stayed pending the final disposition of the claim.

\* \* \* \*

(c) If the claim in abatement is denied in whole or in part, there shall be collected, at the same time as the part of the claim denied, and as a part of the tax, interest at the rate of 6 per centum per annum upon the amount of the claim denied, from the date of notice and demand from the collector under subdivision (d) of section 274 to the date of the notice and demand \* \* \*. If the amount included in the notice and demand from the collector \* \* \* is not paid in full within 10 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month \* \* \*.

*Revenue Act of 1926, c. 27, 44 Stat. 9:*

SEC. 274 [As amended by Section 502 of the Revenue Act of 1928, c. 852, 45 Stat. 791]

(k) Where it is shown to the satisfaction of the Commissioner that the payment of a deficiency upon the date prescribed for the payment thereof will result in undue hardship to the taxpayer the Commissioner, with the approval of the Secretary (except where the deficiency is due to negligence, to intentional disregard of rules and regulations, or to fraud with intent to evade tax), may grant an extension for the payment of such deficiency or any part thereof for a period not in excess of 18 months, and, in exceptional cases, for a further period not in excess of 12 months. If an extension is granted, the Commissioner may require the taxpayer to furnish a bond in such amount, not exceeding double the amount of the deficiency, and with such sureties, as the Commissioner deems necessary, conditioned upon the payment of the deficiency in accordance with the

terms of the extension. In such case there shall be collected, as a part of the tax, interest on the part of the deficiency the time for payment of which is so extended, at the rate of 6 per centum per annum for the period of the extension, and no other interest shall be collected on such part of the deficiency for such period. If the part of the deficiency the time for payment of which is so extended is not paid in accordance with the terms of the extension, there shall be collected, as a part of the tax, interest on such unpaid amount at the rate of 1 per centum a month for the period from the time fixed by the terms of the extension for its payment until it is paid, and no other interest shall be collected on such unpaid amount for such period.

\* \* \* \*

#### JEOPARDY ASSESSMENTS

SEC. 279. \* \* \*

(f) When a jeopardy assessment has been made the taxpayer, within 10 days after notice and demand from the collector for the payment \* \* \* may obtain a stay of collection \* \* \* by filing with the Collector a bond \* \* \* not exceeding double the amount as to which the stay is desired, \* \* \* conditioned upon the payment of so much of the amount, the collection of which is stayed by the bond, as is not abated by a decision of the Board which has become final, together with interest thereon as provided in subdivision (j) of this section.

\* \* \* \*

(i) When the petition has been filed with the Board \* \* \* [after] \* \* \* a decision of the Board which has become final, then any unpaid portion, the collection of which has been stayed by the bond, shall

be collected as part of the tax upon notice and demand \* \* \*.

(j) \* \* \* If the amount included in the notice and demand from the collector under subdivision (i) of this section is not paid in full within 10 days after such notice and demand, then there shall be collected, as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month \* \* \*.

*Revenue Act of 1928, c. 852, 45 Stat. 791:*

SEC. 56. PAYMENT OF TAX.

(a) *Time of payment.*—The total amount of tax imposed by this title shall be paid on the fifteenth day of March following the close of the calendar year, \* \* \*.

\* \* \* \*

SEC. 273. JEOPARDY ASSESSMENTS.

\* \* \* \*

(f) [Same as Sec. 279(j) of the Revenue Act of 1926.]

\* \* \* \*

(i) *Collection of unpaid amounts.*—[Same as Sec. 279(i) of the Revenue Act of 1926.]

SEC. 292. INTEREST ON DEFICIENCIES.

Interest upon the amount determined as a deficiency shall be assessed at the same time as the deficiency, shall be paid upon notice and demand from the collector, and shall be collected as a part of the tax, at the rate of 6 per centum per annum from the date prescribed for the payment of the tax \* \* \* to the date the deficiency is assessed, \* \* \*.

\* \* \* \*

SEC. 294. ADDITIONS TO THE TAX IN CASE OF  
NONPAYMENT.

\* \* \* \*

(b) *Deficiency*.—Where a deficiency, or any interest or additional amounts assessed in connection therewith under section 292, \* \* \* is not paid in full within ten days from the date of notice and demand from the collector, there shall be collected as part of the tax, interest upon the unpaid amount at the rate of 1 per centum a month from the date of such notice and demand until it is paid. \* \* \*

\* \* \* \*

SEC. 297. INTEREST IN CASE OF JEOPARDY ASSESSMENTS,

[Same as Sec. 279(j) of the Revenue Act of 1926.]

SEC. 603. BOARD OF TAX APPEALS—COURT REVIEW OF DECISION.

Subdivisions (c) and (d) of section 1001 of the Revenue Act of 1926 are amended to read as follows:

“(c) Notwithstanding any provision of law imposing restrictions on the assessment and collection of deficiencies, such review shall not operate as a stay of assessment or collection of any portion of the amount of the deficiency determined by the Board unless a petition for review in respect of such portion is duly filed by the taxpayer, and then only if the taxpayer (1) on or before the time his petition for review is filed has filed with the Board a bond in a sum fixed by the Board not exceeding double the amount of the portion of the deficiency in respect of which the petition for review is filed, and

with surety approved by the Board, conditioned upon the payment of the deficiency as finally determined, together with any interest, additional amounts, or additions to the tax provided for by law, or (2) has filed a jeopardy bond \* \* \*. (U.S.C., Title 26, Secs. 644, 645.)

*Revenue Act of 1935, c. 829, 49 Stat. 1014:*

SEC. 404. INTEREST ON DELINQUENT TAXES.

Notwithstanding any provision of law to the contrary, interest accruing during any period of time after the date of the enactment of this Act upon any internal-revenue tax (including amounts assessed or collected as a part thereof) or customs duty, not paid when due, shall be at the rate of 6 per centum per annum.

